REMARKS/ARGUMENTS

The rejections presented in the Office Action dated March 30, 2007 (hereinafter Office Action) have been considered, and reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Applicant respectfully traverses each of the prior art rejections (§§ 102(b) and 103(a)), each of which is based at least in part upon the teachings of U.S. Publication No. 2002/0183062 by Kubosawa (hereinafter "Kubosawa"), because the asserted references alone, or in combination, do not teach or suggest each of the claimed limitations. For example, Kubosawa does not teach applying a handover algorithm when the current state of a user interface component is active, as claimed in each of the independent claims. In contrast, Kubosawa teaches that when handover is needed and possible, handover is executed (paragraph [0032]). There is no indication that Kubosawa applies a handover algorithm when a user interface component has been checked to be active. Rather, Kubosawa provides an opportunity for a user to predetermine the type of handover that may be performed such that if handover is determined to be necessary (based upon quality measurements) and the type of predetermined handover is possible (the predetermined system is available for handover), handover is executed. Steps S8 and S9 of Kubosawa's Fig. 2 are not directed to determining whether or not a handover algorithm is executed, but rather, are steps carried out during a handover algorithm execution. More specifically, step S9 merely checks for user input and if no input is received, the algorithm reverts to measuring the communication quality at step S3.

Contrary to the assertions of the Office Action, the user input detected at step S9 does not correspond to the claimed active state of an interface component. The Office Action asserts at page two that "if there is input at step S9, it executes the handover". However, the input at S9 may be user instructions for "waiting" or "disconnection" such that handover does not occur (terminal waits to apply handover or communication ends) (paragraphs [0056-0057]). Thus, the Office Action would consider the interface component to be active (input received at step S9) but the terminal would not apply the handover algorithm. Further, since execution of handover is not dependent upon user input in step S9

(Kubosawa will automatically execute handover when the predetermined type of handover in step S1 is possible), Kubosawa does not teach that handover is applied only when a user interface component is active as asserted by the Office Action. The receipt of user input at step S9 does not correspond with the claimed active and inactive states. Without a presentation of correspondence to each of the claimed limitations, the prior art rejections are improper.

With particular respect to the § 102(b) rejection, Applicant notes that to anticipate a claim the asserted reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the patent claim; *i.e.* every element of the claimed invention must be literally present, arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Therefore, all claim elements, and their limitations, must be found in the prior art reference to maintain the rejection based on 35 U.S.C. § 102. Applicant respectfully submits that Kubosawa does not teach every element of independent Claims 1, 9 and 21 in the requisite detail and therefore fails to anticipate at least Claims 1, 2, 8-12, 19 and 22-27. Applicant accordingly requests that the rejection be withdrawn.

With particular respect to independent Claim 21, Applicant notes that this claim is not included in any of the statements of rejection. MPEP § 707.07(d) indicates that where a claim is refused the word "reject" must be used and the statutory basis for any ground of rejection should be designated by an express reference in the opening sentence of each ground of rejection. While it appears that the Examiner intended to reject Claim 21 upon the same basis of the rejection of Claims 1, 2, 8-12, 19 and 22-27, such a rejection would be improper for the reasons discussed above in connection with the failure of Kubosawa to correspond to the claimed invention. If this was not the Examiner's intention, Applicant requests clarification, an opportunity to respond, and that any future rejections comply with MPEP § 707.07(d).

In addition, the independent claims have been amended to further characterize that the mobile terminal is not actively used in the inactive state but actively used in the active state. Support for these changes may be found for example in paragraph [0007] of the Specification; therefore, the changes do not introduce new matter. The claims are believed to be patentable over Kubosawa for the reasons set forth above and because Kubosawa has not been shown to not apply a handover algorithm when a terminal is not being actively used.

Moreover, dependent Claims 2, 8, 10-12, 19 and 22-27 depend from independent Claims 1, 9 and 21, respectively, and also stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Kubosawa. While Applicant does not acquiesce to the particular rejection to these dependent claims, the rejection is also improper for the reasons discussed above in connection with the independent claims. These dependent claims include all of the limitations of their respective independent claims and any intervening claims, and recite additional features which further distinguish them from the cited reference. Therefore, the rejection of dependent Claims 2, 8, 10-12, 19 and 22-27 is improper. Applicant accordingly requests that the § 102(b) rejection be withdrawn.

With respect to the § 103(a) rejections of dependent Claims 3-7, 13-18 and 20 based upon Kubosawa in view of GB 2289191 by Motorola; U.S. Patent No. 6,178,388 to Claxton; U.S. Publication No. 2004/0204123 by Cowsky, III *et al.*; U.S. Publication No. 2004/0248594 by Wren, III; and U.S. Patent No. 6,871,074 to Harris *et al.*, respectively, Applicant respectfully traverses. As discussed above, Kubosawa fails to correspond to the limitations of independent Claims 1 and 9 (from which Claims 3-7, 13-18 and 20 depend). The Examiner's further reliance on these additional teachings does not overcome the above-discussed deficiencies in Kubosawa. Thus, the asserted combinations of these teachings with the teachings of Kubosawa do not teach each of the claimed limitations of dependent Claims 3-7, 13-18 and 20, and each of the § 103(a) rejections should be withdrawn.

It should also be noted that Applicant does not acquiesce to the Examiner's statements or conclusions concerning what would have been inherent, obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of

Applicant's invention, officially noticed facts, and the like. Applicant reserves the right to address in detail the Examiner's characterizations, conclusions, and rejections in future prosecution.

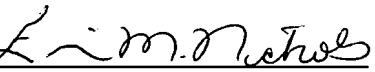
Also, new Claim 28 has been added. The subject matter of this claim corresponds to subject matter removed from original Claim 9; therefore, this claim does not introduce new matter. New Claim 28 is also believed to be patentable for the reasons discussed above in connection with independent Claim 9.

Authorization is given to charge Deposit Account No. 50-3581 (KOLS.083PA) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

HOLLINGSWORTH & FUNK, LLC
8009 34th Avenue South, Suite 125
Minneapolis, MN 55425
952.854.2700

Date: October 1, 2007

By: 

Erin M. Nichols
Reg. No. 57,125